

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOSE RODRIGUEZ,

Plaintiff,

-against-

MEMORANDUM & ORDER  
17-CV-5099 (JS) (AKT)

NASSAU COUNTY SHERIFF, OFFICERS  
SAEED, MCLAUGHLIN, JOHNSON, TORCHA,  
MURPHY, WHITEFIELD, MCDONNEL,  
AROUISTA, HOMLES, PULGRANO, BARBARA,  
DAVIS, and CORPORALS AFLEGEL and  
FIELDING,

Defendants.

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APPEARANCES

For Plaintiff: Jose Rodriguez, pro se  
18001556  
Nassau County Correctional Center  
100 Carman Avenue  
East Meadow, NY 11554

For Defendants: No appearance.

SEYBERT, District Judge:

By Memorandum and Order dated August 28, 2018 (the "M&O"), the Court, inter alia, sua sponte dismissed the Complaints of incarcerated pro se plaintiff Jose Rodriguez ("Plaintiff") and granted Plaintiff leave to file a Second Amended Complaint in accordance with the M&O within thirty (30) days therefrom. (See M&O, Docket Entry 11.) To date, Plaintiff has not filed a Second Amended Complaint nor has he otherwise communicated with the Court about this case other than by letter, dated September 14, 2018, addressed to the Clerk of Court, Douglas Palmer, wherein Plaintiff

complains about the difficulties he is having using the telephone at the Nassau County Correctional Center. (See Letter, Docket Entry 12.)

In an abundance of caution and given Plaintiff's pro se status, Plaintiff is afforded one final opportunity to file a Second Amended Complaint in accordance with the guidance set forth in the M&O within thirty (30) days from the date of this Order. Any Amended Complaint shall be clearly labeled "Second Amended Complaint," and shall bear docket number 17-CV-5099(JS) (AKT). Plaintiff is cautioned that a Second Amended Complaint completely replaces all prior Complaints. Therefore, Plaintiff must include all claims against the Defendant(s) he seeks to pursue in the Second Amended Complaint. If Plaintiff does not have sufficient information at this time to identify the police officer[s] he seeks to sue, Plaintiff may continue to name such individual[s] as "John Doe" but shall include factual allegations of conduct or inaction attributable to him in support of Plaintiff's claims. Plaintiff is warned, should he fail to timely file a Second Amended Complaint, judgement shall enter and this case will be closed.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is DENIED for the purpose

of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of the Court is directed to mail a copy of this Order to the pro se Plaintiff.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: January 10, 2019  
Central Islip, New York